

Salisbury, North
Carolina

July 15, 2003

REGULAR MEETING

PRESENT: Mayor Susan W. Kluttz, Presiding; Mayor Pro Tem, Paul B. Woodson, Jr.; Councilmen William (Bill) Burgin; William (Pete) Kennedy; Robert (Bob) Martin; City Manager, David W. Treme; City Attorney, F. Rivers Lawther, Jr.; and City Clerk, Myra B. Heard.

ABSENT: None

The meeting was called to order by Mayor Kluttz at 4:00 p.m. The invocation was given by Councilman Kennedy.

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PLEDGE OF ALLEGIANCE

Mayor Kluttz led those present in the Pledge of Allegiance to the United States flag.

RECOGNITION OF VISITORS

Mayor Kluttz recognized all visitors present.

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ADDITIONS/DELETIONS TO THE AGENDA

Mayor Kluttz noted the following change to the Agenda:

Deletion of Item 10 – Council to consider Group Development Plan G-07-03 Rowan Regional Medical Center, parking lot, 501 Mocksville Avenue. Mayor Kluttz stated that the hospital indicated the need for more preparation time and asked that the presentation be postponed until a future meeting.

CONSENT AGENDA

(a) Minutes

Approve Minutes of the regular meeting of July 1, 2003.

Thereupon, Mr. Woodson made a **motion** to approve the Consent Agenda. Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, Martin, Woodson and Ms. Kluttz voted AYE. (5-0).

KLUMAC ROAD GRADE SEPARATION - PROJECT U-3459

(a) Mr. Dan Mikkelsen, Land Management & Development Director, commented that efforts to make improvements to the railroad crossing began back in 1994. He noted that in a nine-year period, there have been 11 rail crossing fatalities with five of them occurring at crossings which had properly functioning automatic warning devices, and staff took the approach that something more than just gates and lights was needed. He explained that the federal government announced that they were setting up funding to try and establish a high-speed rail corridor, and that this is something being actively pursued by the North Carolina Department of Transportation (NCDOT) and several states both to the north and south of North Carolina. He noted that the plan is to eventually have

the high-speed route connect Atlanta, GA to Washington, DC, would come through Salisbury, and would be of tremendous benefit to the City. Mr. Mikkelson stated that the set of tracks which run parallel to Main Street have approximately 30 freight trains running daily. He commented that any improvement which could be made to the rail corridor on the basis of high-speed passenger service, we would get that benefit 30 times a day in freight rail. He noted that the City and the State conducted a comprehensive, long range study which recommended nine (9) grade crossing closures, that over \$1 million be invested in street improvements, and that eventually the state construct two grade separations with one being on the north and one on the south side of the City.

Mr. Mikkelson referred to a map which showed the rail corridors and that most of the closing proposals were for the southern portion of the City to include the extension of Boundary Street to Jake Alexander Boulevard, extension of Lumber Street and Railroad Street, realignment of Military Avenue, all resulting in the closing of nine (9) crossings. He noted that left the Klumac Road crossing which is recommended to get a grade separation.

Mr. Mikkelson commented that in 1994, just under 6,000 vehicles crossed at Klumac Road each day, and that in 2002, the number increased to 8,000 vehicles per day. He noted that the increase in 2002 was due largely to the closing of the other crossings which forced traffic over to Klumac Road. He indicated that NCDOT projects 14,000 vehicles at the Klumac crossing in 2025, and that, as Traffic Engineer, it concerns him to see that many vehicles at conflict with that many trains. Mr. Mikkelson commented that the City is supportive of making some improvement at Klumac Road.

Mr. Mikkelson explained that NCDOT has prepared three alignments:

A. Current street alignment (connecting Klumac to Fulton Street) and builds a bridge up over the railroad tracks

B. Adjusted current street alignment, but leaves the right-of-way a longer period of time while the bridge is under construction

C. Connect Klumac Road to NC 150 and because of the elevation of the tracks, the highway would actually go under the railroad. It is a more expensive construction type

Mr. Mikkelson commented that if City Council endorses any one of the three proposed alignments discussed above, there will be possibilities for further modification of that alignment.

Mr. Mikkelson noted that there are two other options:

- The "no build" option which would leave the crossing just as it is today. He noted, however, that consideration should be given as to whether or not safety concerns would be addressed with this option.
- The "close the crossing" option which addresses the safety concerns and does not infringe on the surrounding property owners because of the physical construction of a bridge, but takes away one of the alternatives for getting across the roadway.

Mr. Mikkelson stated those represent essentially the six options with which Council has to deal, and pointed out the schedule as follows:

- Local Public Hearing: July 15, 2003
- On-site meeting: July 16, 2003
- Staff recommendation: August 5 or 19, 2003
- NCDOT design completion: November, 2003
- NCDOT Public Hearing: Spring, 2004
- Construction begins: 2006

Mr. Mikkelson commented that he has been told that NCDOT will accept the recommendation of the City Council very heavily in making their final decision. He noted that if Council picks one of the alternatives or something very similar to it, NCDOT will try their best to design and build that alternative, and that if Council elects not to proceed with the project, NCDOT will drop it. He stated that this is a case where whatever the Council decides is most likely what will be built.

Councilman Burgin commented that he was pleased to hear that NCDOT will entertain alternatives to their alternatives, because there are some good things in one of alternative, but that there are some vast easy improvements if we have some options. He stated that he was particularly interested in discussing one alternative to the alternatives.

(b) Mayor Kluttz convened a public hearing, after due notice and advertisement thereof, relative to the Klumac Road Grade

Separation, State Project U-3459.

Those speaking **regarding** the above project were:

Mr. Dan Mikkelsen presented comments on behalf of Mr. John Leatherman, 120 Gregory Road, in which he requested that the area of consideration be expanded to Peeler Road. He specifically suggested that Klumac Road, Henderson Grove Church Road, Peach Orchard Road, and Peeler Road railroad crossings be closed. He also requested that a new Airport Road crossing be constructed along with a future Julian Road to Airport Road connector following Town Creek and running parallel to US 29 and I-85.

Mr. Charles Newsome, General Manager of Johnson Concrete, 217 Klumac Road, told Council their business is located adjacent to the crossing. He indicated that the proposed grade separations at Klumac Road would result in Johnson Concrete not being able to operate, because raw materials are received right where all of these proposals have a retaining wall, and they would be unable to get raw materials in and finished products out. He noted that the business has been there since 1946, employs forty people with an annual payroll of approximately \$1 million, and has a tax base of approximately \$30,000. He stated that they hope Council will not force them to move, that they do not want to move, that they think they have been a good corporate citizen, and that they think there are other options available. Mr. Newsome identified options such as the grade separations already in place only one-half mile south at Jake Alexander Boulevard or only three-fourths of a mile north at Military Avenue, to close the siding, or "do nothing" and leave it as it is. He noted that he has been at Johnson Concrete for almost thirty-five years, and to his knowledge there has not been an accident at this particular crossing. He stated that Johnson Concrete feels that with the other options that are available, a solution can be found, and it would be a mistake to force them to move out in a climate where jobs are at a premium and simply because they have been there since 1946. Mr. Newsome stated that option C would take so much of their land that there would not be enough left on which to operate, and that with the other options, the retaining wall prevents them from receiving raw materials and sending out finished products.

Councilman Woodson indicated that he had looked around at Jake Alexander Boulevard and the end of South Main with the grade separation, the trestle going over it, and the cloverleaf configuration. He noted that he was trying to think of something possibly in that area, and that Mr. Newsome had also suggested that area and asked if Mr. Newsome had specifics.

Mr. Newsome, indicated that they had talked about it and felt that in this format it was better not to redraw all of this. He noted that their position, at the moment, is that none of these three alternatives, as they have been presented, will work for Johnson Concrete, and that there are other options.

Councilman Martin clarified with Mr. Newsome that if either of the Options A, B, or C were to be adopted, then basically Johnson Concrete Co., who has been there for quite a while and a good corporate citizen, would no longer be there.

Mr. Randy Reamer, 2060 Sherrills Ford Road, told Council that he was speaking on behalf of his wife and his brother-in-law, Bill Smith, who own the former Electric Wholesale building and the Furniture Warehouse. He stated that Options A and B would virtually put them out of business, and that not being sure about the impact of Option C, would reserve comment. He indicated that of the six options, they oppose the option for "closing of the grade crossing". He commented that the crossing should be kept open for their business as well as Johnson Concrete and the people in Fulton Heights. Mr. Reamer noted that the easiest thing for Council to do is to "do nothing", but that is the easy way out and, of course, something has to be done sometime. He stated that is where he is coming from today, and it puts people like him, his wife, and his brother-in-law in limbo. He indicated that they were kind of like the Pope and Arey building was for years when it was stated that the Shober (Ellis Street) Bridge would be redone, the tenants left, the building sat empty for ten years, and the bridge never got redone. He noted that he had sent a letter to NCDOT following the hearing which was recently held in City Hall and would like to make it a part of this record. He indicated that the four recommendations in the letter were to make a decision as soon as possible, that the crossing should not be closed because it is vital to the businesses and the people in the area, that NCDOT recognize that whatever is done is going to affect access to the Furniture Warehouse building and the Electric Supply building, and if Option C were to be chosen, they would like consideration for leaving old Main Street open to that intersection so one could get around to the back of the buildings.

Mr. Rodney Queen, 101 Polo Drive, commented that he owns about three parcels of property directly across from Johnson Concrete Company. He indicated that he had started construction on the property when NCDOT called and informed him of their plans and that he has attended most of the meetings since that time. He noted that he is a small player in comparison to the impact that Johnson Concrete has, and that he certainly would not want to do anything that would disrupt their business in any way. He stated that when he first started talking with NCDOT, there was discussion about doing a shift of the road when they were going to do the bridge so that Klumac as it exists would be a way in and out for Johnson Concrete. He noted that this seemed to be a viable approach, but somewhere in the transition it seemed to shift back over and eliminates that approach for them. Mr. Queen indicated that in another conversation with NCDOT, there was talk about adjusting the turn of Klumac Road so that it would come more to the side of Johnson Concrete, but that did not seem to materialize. He indicated that the main comment he wanted to make is that he is flexible, but he does not think the crossing should be closed if 8,000 vehicles go through that crossing daily, because of the problems surrounding redistribution of traffic.

Mr. Chris O'Guin, Pastor of Community Baptist Church, 325 Calhoun Street, commented that he was here to concur with everybody else that closing Klumac Road is not an option. He noted that it is one of the main arteries into town, and that other than East Innes and Jake Alexander Boulevard, there is no thoroughfare other than Klumac Road. He stated that closing it would, in effect, put his 300-membership congregation out of business. Mr. O'Guin noted that it is one of the main entrances into the church, and without that entrance way, it will terribly impact not only his church, but also all of the new businesses that are springing up along Klumac Road. He commented that he does not know exactly what needs to be done for everyone, but he does know that the wrong thing is to close the road.

Ms. Debbie Mathis, Administrator at Trinity Oaks Retirement Community, 728 Klumac Road, indicated that there are approximately 250 employees and about the same number of residents that live in independent living and in the nursing home. She noted that the residents have not been polled, but that she worries about convenience for lots of people by cutting off Klumac Road. Ms. Mathis

commented that she did not want to do anything to hurt Johnson Concrete, but would prefer leaving the crossing as it is versus closing it down.

Mr. Douglas Holmes, Holmes Iron & Metal Inc. of East Spencer and owner of property directly across from Johnson Concrete Co. commented that when they first bought the nine acres of property on Klumac Road, they thought it was a good investment, but did not get a chance to use it for other than a nightclub. He stated that to close that corridor at this time is totally unacceptable. He thinks he has a workable solution which might be good for all parties and for which he believes he would have support from the involved parties. Mr. Holmes indicated that one solution would be to move the road a little to the right in the Alignment B Option. He noted that Holmes would have to give up some property, but it would be a workable situation that would not affect Johnson Concrete. He commented that they have been good neighbors there for years, he wants to continue to be a good neighbor and does not want to hamper their operation, and that Holmes could easily give up some space there. He indicated that, secondly, if the bridge were to be built on pillars, it could come into their parking lot, make a turn through the property and come back underneath, and would not hamper their operation at all. He commented that he thought if a little more study were to be given to Alignment B in terms of being able to cross up underneath the bridge there and have the 18-wheelers come in, bear to the right and come through their property, make a circle and go back through, then it would be a workable solution for everybody. Mr. Holmes noted that to close Klumac Road would totally devalue the property there, and stated that when people can come through and look down and see what businesses are there, the property becomes valuable.

Mr. Andrew Pitner, 320 Mitchell Avenue, indicated that one thing he did not see in the study was consideration for the effect that this traffic will have beyond the boundaries which have been addressed in the study. He commented that in Alignment A and B, all traffic which goes through the intersection will be funneled into Fulton and/or Main Streets. Once the traffic goes to Fulton, the shortest way for it to get to Jake Alexander Boulevard would be through the Fulton Heights neighborhood, he said. Mr. Pitner noted that they would be opposed to increased traffic coming through their neighborhood. He stated that he has crossed the grade many times, that it is definitely one that needs improvement of some kind, and that the "do nothing" option is not a workable solution. He commented that he knows it may affect Johnson Concrete and other businesses, but he would certainly see Option C as a way to shuttle traffic towards those streets which are designed to handle increased traffic flow. Mr. Pitner urged Council to look at the larger impact of where traffic is going to go beyond just a 500 foot radius of the crossing.

No one else was present to speak regarding the above proposed project. Therefore, Mayor Kluttz closed the public hearing.

(c) Mayor Kluttz reminded Council that no action would be taken today, but that she would turn it back to the members for discussion.

Councilman Martin indicated that one must realize the economic impact Options A, B, or C would have in the closing of Johnson Concrete Company. If the railroad crossing were to be closed, there would be an impact on the other businesses and the church, he noted. He commented that he thought the simplest solution would be the same approach as used on the 14th Street crossing, which is to put barriers down to keep drivers from going around the cross-arms. He indicated that he thought the crossing should be left as is and put barriers in place. Mr. Martin indicated that he just could not see spending all of that money and then have an impact on all of the people who are already out there.

Councilman Woodson commented on the \$11 million expense which would be required. He said that he agreed with Mr. Martin that the crossing should be left open. He does not want to impact those businesses, and that consideration should be given to making it safer, Mr. Woodson stated.

Councilman Kennedy indicated that he felt there were a number of alternatives to look at, there is a short time in which to make a decision, and this Council has gone on record as studying all of the issues before any decisions are made. He commented that he would like to recommend, along with the staff looking at this information, that the Mayor appoint a council committee to look at it also, so that when both staff and committee return, Council would be able to make a decision and move on with the process.

Councilman Burgin indicated that he concurred with Councilman Kennedy and hoped that a way could be found to get a crossing that is separated. He indicated that he feels that way because as one thinks of high-speed rail, he does not want the City to be left out of that loop because that would be seriously important for the City as a whole. He noted that there may be an alternative to Alignment C that would leave Johnson Concrete intact, and he would like to explore that. He explained that there is a vacated industrial site adjacent to Johnson Concrete that almost aligns with what is being proposed, and if one could follow that alignment along that property line and stay totally off of Johnson Concrete, one could intersect Boundary Street about 400 feet further down from the present intersection. He noted that if it is then continued on and aligned back into Klumac and one of the curves of Klumac Road is removed, it would even improve the road. Mr. Burgin commented that any additional roadway would be going over undeveloped land for the most part, there would be improvement of a blind intersection for which a stop light had to be installed because of the way the grades are laying now, and that it would allow that intersection to be used exclusively by Johnson Concrete, the Holmes business, and other businesses along Klumac. He indicated that he thought there was an option to look at there. Mr. Burgin commented that he had not thought about some of the ideas that Mr. Holmes offered relative to crossing over and under, but that those ideas may also be something worth looking at. He stated that what he thought was important was that the operation of Johnson Concrete not be disrupted. He indicated that it is seriously important to the City, and that there are other routes that would allow the City to have a win-win situation. Mr. Burgin commented that he liked the idea of taking Klumac Road to Highway 150. He noted that some zoning decisions and site plan approvals were made at the end of Mitchell Avenue, and that by using this plan, it would actually help that situation. He noted that he would like to try that alternative to see if all of the needs could be met, and did not think it would add that much demand to NCDOT. He indicated that NCDOT would have to buy more right-of-way, but it would be undeveloped property. He noted that Mr. Queen would take a little bit of a hit, but that he would probably be willing, on behalf of the City, to be fairly compensated and find another spot to build some of the good projects he is thinking about. Mr. Burgin commented that he thought there was a way for the City to move forward and come out with a win-win situation, and would be glad to serve on a committee, if that is what this Council would like to do.

Mayor Kluttz indicated that she agreed with the other Council members and would not want to see Council do anything to hurt the Johnson Concrete business, any other business on Klumac Road, or inconvenience the citizens. She noted that it is already difficult to

get from one part of town to the other, but at the same time, the City has to balance safety and the traffic issues. She commented that when one looks at high-speed rail with trains approaching 200 miles per hour coming through Salisbury, which right now it would do, it is dangerous, and the City needs to look far enough down the road to realize that maybe arms might not be enough. She noted that this Council has always been willing to look for the best compromise for all, and will certainly do that in this situation.

Mayor Kluttz then appointed a Council Committee consisting of Mayor Pro Tem Woodson and Councilman Burgin to work with the City staff and come back with a recommendation as soon as possible.

Mayor Kluttz thanked everyone from the public who was present for the public hearing, for their interest and help. She expressed appreciation for their support because it was going to be a difficult decision for the Council.

PERMIT TO OPERATE A POOL HALL - 723 KLUMAC ROAD

(a) Sgt. H. H. Coffield, Salisbury Police Department, introduced Mr. Jeffrey K. Alley, and indicated that there has been no change in information since the original report on July 1, 2003. Sgt. Coffield noted that there had been one call from Mr. Alley on May 26, 2003, for service regarding a suspicious vehicle on the business property and one call from an unknown resident of Trinity Oaks on June 21, 2003, regarding loud music/noise. He recommended that the permit for Mr. Alley be approved.

Mr. Jeff Alley introduced himself and stated that he is a police officer with the East Spencer Police Department, and that he keeps a close eye on all activities at his establishment. He commented that despite the fact that it has two pool tables, he does not consider it a pool hall. Mr. Alley said that he wanted to assure Council that it is not a normal "saloon", and that it will be kept clean and looked after with respect to any concerns.

(b) Mayor Kluttz convened a public hearing, after due notice and advertisement thereof, on the request for a permit to operate a pool hall at 723 Klumac Road.

No one was present to speak **for** or **against** the above proposal. Therefore, Mayor Kluttz closed the public hearing.

(c) Thereupon, Mr. Woodson made a **motion** to grant the permit for operating a pool hall. Mr. Martin seconded the motion. Messrs. Burgin, Kennedy, Martin, Woodson and Ms. Kluttz voted AYE. (5-0)

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ZONING TEXT AMENDMENT - WALL SIGNS IN THE B-5 CENTRAL BUSINESS DISTRICT

(a) Mr. Harold Poole, Senior Planner, indicated that the Planning Board recommendation was unanimous to approve a zoning text amendment for wall signs in the B-5 Central Business Section. He noted that the current ordinance reads as follows:

"One wall sign shall be permitted for each 25 feet of street frontage, provided that where there is one parcel in single ownership with 50 or more feet of street frontage, the distance between the two signs is at least eight (8) feet and the distance between the wall sign and the property line is at least four (4) feet."

Mr. Poole indicated that in the above ordinance, there was failure to think about the very small buildings in the downtown area, and that the changes being recommended in the proposed zoning text amendment would result in the following ordinance:

"One wall sign shall be permitted for each 10 feet of street frontage, provided that where there is one parcel in single ownership with 25 or more feet of street frontage, the distance between the two wall signs shall be at least eight (8) feet."

(b) Mayor Kluttz convened a public hearing, after due notice and advertisement thereof, on the following zoning text amendment relative to wall sign modifications in the B-5 Central Business District.

Those speaking in **favor** of the above proposal were:

Ms. Mary Beth Smith, Attorney, indicated that she recently purchased property at 117 South Main Street from where she operates her law office. She noted it is a 6800 square foot building and the frontage does not fall in accordance with current zoning so that she could put two signs on the building. She stated that she could put a 60 square foot sign, but not two signs. Ms. Smith explained that when she purchased the building, it had two signs which were mounted into the existing granite. She referred Council to pictures of the two signs which were provided in the Council packets. She explained that her request is to be able to remount the plates which were on the building on the existing grids, and that without the zoning amendment which would permit this, it is going to leave the building basically damaged. Ms. Smith noted that the grids still stand evident in the front of the building and detract from the building's appearance. She indicated that her request is for Council to approve the zoning text amendment.

No one else was present to speak **for** or **against** the above proposal. Therefore, Mayor Kluttz closed the public hearing.

Mayor Kluttz indicated that this is another case where the sign ordinance needs to be adjusted periodically, and that the City promotes

adaptive re-use of buildings, particularly downtown.

Mayor Pro Tem Woodson commented that he had been by the building several times and that what Ms. Smith proposes is very attractive. He noted that when people want to go downtown to fix up a building and make it attractive, Council needs to work with them.

(c) Thereupon, Mr. Woodson made a **motion** to amend Section 9.05, part (b), to say "One wall sign shall be permitted for each 10 feet of street frontage, provided that where there is one parcel in single ownership with 25 or more feet of street frontage, the distance between the two wall signs shall be at least eight (8) feet." Mr. Kennedy seconded the motion. Messrs. Burgin, Kennedy, Martin, Woodson and Ms. Klutz voted AYE. (5-0)

AN ORDINANCE AMENDING APPENDIX B, ZONING, OF THE CODE OF ORDINANCES OF THE CITY OF SALISBURY, NORTH CAROLINA, BY AMENDING SECTION 9.05 SIGNS PERMITTED BY DISTRICT, (3) B-5 (CENTRAL BUSINESS) ZONING DISTRICT, PART (b) PERTAINING TO WALL SIGNS.

(The above ordinance is recorded in full in Ordinance Book No. 19, under Chapter XI - Zoning & Planning, at Page No. 32, and is known as Ordinance No. 2003-48.)

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ZONING TEXT AMENDMENT - ADDITIONAL GROUND SIGNS FOR CHURCHES

(a) Mr. Harold Poole, Senior Planner, indicated that the Planning Board recommendation was unanimous to approve a zoning text amendment allowing an additional ground sign for churches, which would add subsection 16 to Section 9.06 Special Sign Provision. He noted the request was from St. John's Lutheran Church who wanted to put an additional sign in the 100 block of North Jackson Street and was not able to do so due to having met the quota for the number of signs allowed. Mr. Poole explained that it is being suggested that churches be allowed to have an additional sign, but not unconditionally. He noted that staff feels churches should be allowed to have an additional ground sign if no larger than 15 square feet with a maximum height of 6 feet. He commented that this amendment would allow St. John's Lutheran Church to have the type of sign desired at the indicated location.

(b) Mayor Klutz convened a public hearing, after due notice and advertisement thereof, on the following zoning text amendment relative allowing an additional ground sign for churches, which would add subsection 16 to Section 9.06 Special Sign Provision.

Those speaking in **favor** of the above proposal were:

Ms. Julie Brown, representing St. John's Lutheran Church, 200 West Innes Street, indicated that the church is adding a third service starting in October, and is requesting this sign because the service will be held in an area of the church located on the backside facing Jackson Street. She noted that the entrance is actually on Council Street and this sign would attract people to the proper entrance and to the parking area on the backside of the building. Ms. Brown indicated that the church was hoping to add one ground sign of roughly 3 feet x 4 feet on a 15 inch post and to add a small wall sign about 2 feet x 3 feet adjacent to the door which faces Council Street.

No one else was present to speak **for** or **against** the above proposal. Therefore, Mayor Klutz closed the public hearing.

Councilman Kennedy commented that this was once again another example of Council fine-tuning the sign ordinance.

(c) Thereupon, Mr. Kennedy made a **motion** to amend Section 9.06 Special Sign Provisions by adding a new subsection, Subsection (16) which allows an additional ground sign for churches which would be no larger than 15 square feet in size and a maximum of six (6) feet in height. Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, Martin, Woodson and Ms. Klutz voted AYE. (5-0)

AN ORDINANCE AMENDING APPENDIX B, ZONING, OF THE CODE OF ORDINANCES OF THE CITY OF SALISBURY, NORTH CAROLINA, BY AMENDING SECTION 9.06 SPECIAL SIGNS PROVISIONS, BY ADDING A NEW SUBSECTION, SUBSECTION (16) WHICH ALLOWS AN ADDITIONAL GROUND SIGN FOR CHURCHES.

(The above ordinance is recorded in full in Ordinance Book No. 19, under Chapter XI - Zoning & Planning, at Page No. 33, and is known as Ordinance No. 2003-49.)

ALLEY CLOSINGS - 200 BLOCK OF EAST 15TH STREET

(a) Ms. Wendy Brindle, Traffic Engineer, informed Council that on June 17, 2003, a resolution of intent to close three alleys in the 200 Block of East 15th Street was adopted. She noted that all necessary notifications to inform the public have been made, and it does not appear that anyone will be deprived of "reasonable means of ingress or egress". She stated that if there is no reasonable opposition at the public hearing, it is recommended that Council adopt a resolution accepting offers of dedication and adopt an Order to close the three alleys.

(b) Mayor Kluttz convened a public hearing, after due notice and advertisement thereof, on the closing of three alleys in the 200 block of East 15th Street.

No one was present to speak **for** or **against** the above proposal. Therefore, Mayor Kluttz closed the public hearing.

(c) Thereupon, Mr. Woodson made a **motion** to adopt the resolution accepting the alley. Mr. Kennedy seconded the motion. Messrs. Burgin, Kennedy, Martin, Woodson and Ms. Kluttz voted AYE. (5-0)

RESOLUTION PERTAINING TO THE ACCEPTANCE OF AN OFFER OF DEDICATION FOR PUBLIC USE OF THE ALLEYS IN THE 200 BLOCK OF EAST 15th STREET.

(The above resolution is recorded in full in Resolution Book No. 11, under Chapter XII - Miscellaneous, at Page No. 37, and is known as Resolution No. 2003-35.)

(d) Thereupon, Mr. Woodson made a **motion** to adopt an ORDER closing the alleys. Mr. Kennedy seconded the motion. Messrs. Burgin, Kennedy, Martin, Woodson and Ms. Kluttz voted AYE. (5-0)

NORTH CAROLINA	*	BEFORE THE CITY COUNCIL OF
ROWAN COUNTY	*	THE CITY OF SALISBURY
	*	NORTH CAROLINA
IN THE MATTER OF:	*	
	*	
	*	
	*	ORDER CLOSING OF ALLEYS
CLOSING OF ALLEYS IN THE	*	PURSUANT TO GENERAL STATUTE
200 BLOCK OF EAST 15 th STREET	*	OF NORTH CAROLINA
	*	SECTION 160A-299

THIS CAUSE, coming on to be heard and being heard before the City Council of the City of Salisbury, Rowan County, North Carolina, at the regular meeting of said Council hold on July 15th at 4:00 p.m., in the City Office Building at 217 South Main Street, Salisbury, North Carolina, and it appearing to the Council that all persons, firms and corporations owning property adjoining the street described in the Petition filed in this cause are parties to this proceeding; and it further appearing that said alleys are not maintained by the Department of Transportation; and it further appearing that notice of this hearing was duly published in THE SALISBURY POST on June 20, June 27, July 4 and July 11, 2003.

And it further appearing to the Council and the Council finding as a fact, that the closing of the alleys, as described in the Petition filed in this cause, is not contrary to the public interest or the property rights of any individual, and that no individual owning property in the vicinity of said alleys or in the subdivision in which they are located will be deprived of reasonable means of ingress and egress to his property by the closing of said alleys; and it further appearing to this Council that the relief prayed in the Petition should be granted.

IT IS NOW, THEREFORE, ORDERED AND DECREED by the City Council of the City of Salisbury, Rowan County, North Carolina, pursuant to and in accordance with the authority vested in this Council by the General Statutes of North Carolina, Section 160A-299:

Beginning at a new iron pin in the western line of East Fifteenth Street. the south east corner of James H. Brower, Jr. (Deed Book 897 Page 541), thence with the line of East Fifteenth Street S 23° 26' 12" E, 12.16' to an existing iron pin, the north east corner of Pilot Developers, LLC (Deed Book 889 Page 247), thence three lines with the Pilot Developers, LLC property, (1) S 66° 45' 00" W, 169.00' to an existing iron pin, (2) S 23° 26' 13" E, 119.27' to an existing iron pin, (3) N 57° 14' 55" E, 171.26' to an existing iron pin in the eastern margin of East Franklin Street, thence with said Street S 23° 26' 13" E, 12.16' to a new iron pin in the line of Norfolk Southern Railroad, thence with the Railroad, thence with the Railroad's line S 57° 14' 55" W, 183.42' to a new iron pin in the southern margin of an alley, thence crossing said alley N 23° 26' 13" W, to an existing iron pin, the south east corner of Michael Barnes (Deed Book 919 Page 882), thence with Barnes' eastern line N 23° 26' 13" W, 121.28' to an existing iron pin in the southern margin of a 12' alley, thence crossing said alley N 23° 26' 13" W, 12.00' to a new iron pin on Brower's southern line, thence with said line N 66° 45' 00" E, 180.93' to the point and place of beginning and being 0.133 Acre as shown on Survey and Map by Shulenburger Surveying Company, P.A. dated 06/02/03.

Be and the same is hereby forever closed

This the 15th day of July, 2003.

CITY COUNCIL OF THE CITY OF
SALISBURY, NORTH CAROLINA

BY:	/s/ Susan W. Kluttz
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Mayor

/s/ Myra B. Heard

City Clerk

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RESOLUTION AUTHORIZING THE ISSUANCE OF BONDS

Mr. John Sofley, Finance Director, reminded Council that over the last several months, staff has been working on a refunding issue, and that the sell date is scheduled for July 22, 2003. He noted that for staff to proceed, the City Council would need to approve the resolution which formally authorizes the bonds. He commented that the resolution provides for the following components:

- Designates the name of the series
- Establishes the debt repayment schedule
- Identifies the form and denominations in which the debt will be issued
- Grants authority to the issuer to vary the aggregate principal amount by \$1,200,000 based on the interest rate
- Requires the City to meet certain reporting requirements
- Authorizes the Mayor and the City Officers to execute an Escrow Deposit Agreement with the Escrow agent
- Authorizes the investment banking firm of Davenport and Company, who has been

working with us on this issue to actually submit a bid for the bonds

Mr. Sofley explained that until several years ago, the federal statute allowed an investment company working with a group on the development of the issuance of a bond, to bid on the same bonds with no required approval from any agency. He noted that with the new federal statute several years ago, the investment firm could bid on the bond only if the Council had specifically authorized it to do so. Mr. Sofley stated that staff was asking that Council approve the Resolution Authorizing Issuance of Debt.

Mr. Sofley stated that if this meets with Council's approval, it would be necessary to have a motion to authorize the resolution. Mr. Sofley noted that there will be a savings of approximately \$50,000 - \$60,000.

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RESOLUTION AUTHORIZING ISSUANCE OF BONDS

WHEREAS, the bond order hereinafter described has taken effect, and it is desirable to make provision for the issuance of bonds authorized thereby;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Salisbury, North Carolina (the "Issuer"), as follows:

1. Pursuant to and in accordance with the refunding bond order adopted by the City Council on June 17, 2003, the Issuer shall issue its bonds in the aggregate principal amount of \$12,130,000, subject to adjustment as hereinafter provided.

2. The bonds to be issued pursuant to the bond order described in the preceding paragraph shall be designated "General Obligation Refunding Bonds, Series 2003" (the "Bonds"). The Bonds shall be dated August 1, 2003, and shall bear interest from their date at a rate or rates that shall be determined upon the public sale of the Bonds, and interest shall be payable on November 1, 2003, and semi-annually thereafter on May 1 and November 1. The Bonds shall mature annually on May 1, as follows, subject to adjustment as hereinafter described:

Principal Principal

Year Amount Year Amount

2004 \$ 730,000 2010 \$1,075,000

2005 655,000 2011 1,055,000

2006 1,210,000 2012 1,030,000

2007 1,175,000 2013 1,010,000

2008 1,140,000 2014 985,000

2009 1,100,000 2015 965,000

Each Bond shall bear interest from the interest payment date next preceding the date on which it is authenticated unless it is (a) authenticated on an interest payment date, in which event it shall bear interest from that interest payment date, or (b) authenticated prior to the first interest payment date, in which event it shall bear interest from its date; provided, however, that if at the time of authentication interest is in default, such Bond shall bear interest from the date to which interest has been paid.

The principal of and the interest on the Bonds shall be payable in any coin or currency of the United States of America that is legal tender for the payment of public and private debts on the respective dates of payment thereof. Debt service will be payable to the owners of Bonds shown on the records of the hereinafter designated Bond Registrar of the Issuer on the record date, which shall be the fifteenth day of the calendar month (whether or not a business day) next preceding a debt service payment date.

The Bonds shall be deemed to refund each of the issues of bonds being refunded within the respective periods of usefulness of the capital projects financed by each of the issues of bonds being refunded.

3. The Bonds will be issued in fully registered form by means of a book entry system with no physical distribution of bond certificates made to the public. One bond certificate for each maturity will be issued to and registered in the name of The Depository Trust Company, New York, New York ("DTC") or its nominee and immobilized in its custody. The book entry system will evidence beneficial ownership of the Bonds in the principal amounts of \$5,000 or integral multiples thereof, with transfers of beneficial ownership effected on the records of DTC and its participants pursuant to rules and procedures established by DTC. Interest on the Bonds will be payable at the times stated in the preceding paragraph, and principal of the Bonds will be paid annually on May 1, as set forth in the above maturity schedule, in clearinghouse funds to DTC or its nominee as registered owner of the Bonds. Transfer of principal and interest payments to participants of DTC will be the responsibility of DTC; transfer of principal and interest payments to beneficial owners by participants of DTC will be the responsibility of those participants and other nominees of beneficial owners. The Issuer will not be responsible or liable for maintaining, supervising or reviewing the records maintained by DTC, its participants or persons acting through participants.

In the event that (a) DTC determines not to continue to act as securities depository for the Bonds, or (b) the Issuer determines that continuation of the book entry system of evidence and transfer of ownership of the Bonds would adversely affect the interests of the beneficial owners of the Bonds, the Issuer will discontinue the book entry system with DTC. If the Issuer fails to arrange for another qualified securities depository to replace DTC, the Issuer will authenticate and deliver replacement Bonds in the form of fully registered certificates in denominations of \$5,000 or integral multiples thereof.

4. The Bonds shall bear the manual or facsimile signatures of the Mayor and the City Clerk of the Issuer, and the official seal or a facsimile of the official seal of the Issuer shall be impressed or imprinted, as the case may be, on the Bonds.

The certificate of the Local Government Commission of North Carolina to be endorsed on all Bonds shall bear the manual or facsimile signature of the Secretary of that Commission or of a representative designated by that Secretary, and the certificate of authentication of the Bond Registrar to be endorsed on all Bonds shall be executed as provided below.

In case any officer of the Issuer or the Local Government Commission of North Carolina whose manual or facsimile signature appears on any Bonds shall cease to be that officer before the delivery of those Bonds, that manual or facsimile signature shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until delivery, and any Bond may bear the manual or facsimile signatures of such persons as at the actual time of the execution of the Bond shall be the proper officers to sign the Bond although at the date of the Bond those persons may not have been such officers.

No Bond shall be valid or become obligatory for any purpose or be entitled to any benefit or security under this resolution until it has been authenticated by the execution by the Bond Registrar of the certificate of authentication endorsed thereon.

5. The Bonds and the endorsements thereon shall be in substantially the following form:

Unless this certificate is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to issuer or its agent for registration of transfer, exchange, or payment and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

NO. R- \$_____

United States of America

State of North Carolina

CITY OF SALISBURY

GENERAL OBLIGATION REFUNDING BOND, SERIES 2003

INTEREST MATURITY DATE OF

RATE DATE BOND CUSIP

August 1, 2003

REGISTERED OWNER: CEDE & CO.

PRINCIPAL SUM: DOLLARS

The City of Salisbury (the "City"), a city of the State of North Carolina, acknowledges itself indebted and for value received hereby promises to pay to the registered owner named above, on the date specified above, upon surrender hereof, at the office of the Finance Director of the City, P. O. Box 479, 132 North Main Street, Salisbury, NC 28144 (the "Bond Registrar"), the principal sum shown above and to pay to the registered owner hereof, by check mailed to the registered owner at its address as it appears on the bond registration books of the City, interest on that principal sum from the date of this bond or from the May 1 or November 1 next preceding the date of authentication to which interest shall have been paid, unless the date of authentication is a May 1 or November 1 to which interest shall have been paid, in which case from that date, interest to the maturity hereof being payable on November 1, 2003, and semi-annually thereafter on May 1 and November 1 of each year, at the rate per annum specified above, until payment of the principal sum. The interest so payable on any interest payment date will be paid to the person in whose name this bond is registered at the close of business on the record date for that interest, which shall be the fifteenth day of the calendar month (whether or not a business day) next preceding that interest payment date. Both the principal of and the interest on this bond shall be paid in any coin or currency of the United States of America that is legal tender for the payment of public and private debts on the respective dates of payment thereof.

This bond is issued in accordance with the Registered Public Obligations Act, Chapter 159E of the General Statutes of North Carolina, and pursuant to The Local Government Finance Act of the State of North Carolina, as amended, a bond order adopted by the City Council of the City on June 17, 2003, (the "Bond Order") and a resolution adopted by that Council (the "Resolution") to provide funds, together with any other funds that may be provided, to advance refund all or a portion of the City's outstanding Sanitary Sewer Bonds, Series 1989 dated as of July 1, 1989, outstanding Sanitary Sewer Bonds, Series 1992 dated as of January 1, 1992, outstanding General Obligation Refunding Bonds, Series 1993 dated as of November 1, 1993 and outstanding Water And Sewer Bonds, Series 1995 dated as of November 1, 1995.

The bonds will be issued in fully registered form by means of a book entry system with no physical distribution of bond certificates made to the public. One bond certificate for each maturity will be issued to and registered in the name of DTC or its nominee and immobilized in its custody. The book entry system will evidence beneficial ownership of the bonds in principal amounts of \$5,000 or integral multiples thereof, with transfers of beneficial ownership effected on the records of DTC and its participants pursuant to rules and procedures established by DTC. Transfer of principal and interest payments to participants of DTC will be the responsibility of DTC; transfer of principal and interest payments to beneficial owners by participants of DTC will be the responsibility of participants and other nominees of beneficial owners. The City will not be responsible or liable for maintaining, supervising or reviewing the records maintained by DTC, its participants or persons acting through participants.

The Bond Registrar shall keep at its office the books of the City for the registration of transfer of bonds. The transfer of this bond may be registered only upon those books and as otherwise provided in the Resolution upon the surrender hereof to the Bond Registrar together with an assignment duly executed by the registered owner hereof or his attorney or legal representative in form satisfactory to the Bond Registrar. Upon any registration of transfer, the Bond Registrar shall deliver in exchange for this bond a new bond or bonds, registered in the name of the transferee, in authorized denominations, in an aggregate principal amount equal to the unredeemed principal amount of this bond, of the same maturity and bearing interest at the same rate.

It is hereby certified and recited that all conditions, acts and things required by the Constitution or statutes of the State of North Carolina to exist, be performed or happen precedent to or in the issuance of this bond, exist, have been performed and have happened, and that the amount of this bond, together with all other indebtedness of the City, is within every debt and other limit prescribed by said Constitution or statutes. The faith and credit of the City are hereby pledged to the punctual payment of the principal of and interest on this bond in accordance with its terms.

This bond shall not be valid or become obligatory for any purpose or be entitled to any benefit or security under the Bond Order or the Resolution until this bond shall have been endorsed by the authorized representative of the Local Government Commission of North Carolina and authenticated by the execution by the Bond Registrar of the certificate of authentication endorsed hereon.

IN WITNESS WHEREOF, the City has caused this bond [to be manually signed by] [to bear the facsimile signatures of] the Mayor and the City Clerk and [a facsimile of] its official seal to be [imprinted] [impressed] hereon, and this bond to be dated August 1, 2003.

Mayor

(SEAL)

City Clerk

CERTIFICATE OF LOCAL GOVERNMENT COMMISSION

The issuance of the within bond has been approved under the provisions of The Local Government Bond Act of North Carolina.

Secretary,
Local Government Commission

CERTIFICATE OF AUTHENTICATION

This bond is one of the Bonds of the issue designated herein and issued under the provisions of the within-mentioned Bond Order and Resolution.

CITY OF SALISBURY

FINANCE DIRECTOR, as Bond Registrar

By: _____

Authorized Signature

Date of Authentication: August 12, 2003

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto _____ the within Bond and irrevocably appoints _____ attorney-in-fact, to transfer the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of the within Bond in every particular, without any alteration whatsoever.

Signature Guaranteed:

NOTICE: Signature(s) must be guaranteed by an institution which is a participant in the Securities Transfer Agent Medallion Program (STAMP) or similar program.

6. Bonds, upon surrender thereof at the office of the Bond Registrar together with an assignment duly executed by the registered owner or his attorney or legal representative in form satisfactory to the Bond Registrar, may, at the option of the registered owner thereof, be exchanged for an equal aggregate principal amount of Bonds of the same maturity, of any denomination or denominations authorized by this resolution, and bearing interest at the same rate.

The transfer of any Bond may be registered only on the registration books of the Issuer upon the surrender thereof to the Bond Registrar together with an assignment duly executed by the registered owner or his attorney or legal representative in form satisfactory to the Bond Registrar. Upon any registration of transfer, the Bond Registrar shall authenticate and deliver in exchange for the Bond a new Bond or Bonds, registered in the name of the transferee, of any denomination or denominations authorized by this resolution, in an aggregate principal amount equal to the unredeemed principal amount of the Bond so surrendered, of the same maturity, and bearing interest at the same rate.

In all cases in which Bonds shall be exchanged or the transfer of Bonds shall be registered hereunder, the Bond Registrar shall authenticate and deliver at the earliest practicable time Bonds in accordance with the provisions of this resolution. All Bonds surrendered in any exchange or registration of transfer shall forthwith be canceled by the Bond Registrar. The Issuer or the Bond Registrar may make a charge for shipping and out-of-pocket costs for every exchange or registration of transfer of Bonds sufficient to reimburse it for any tax or other governmental charge required to be paid with respect to the exchange or registration of transfer, but no other charge shall be made for exchanging or registering the transfer of Bonds under this resolution.

As to any Bond, the person in whose name the same shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of or on account of the principal of any Bond and the interest on any Bond shall be made only to or upon the order of the registered owner thereof or his legal representative. All such payments shall be valid and effectual to satisfy and discharge the liability upon that Bond and interest thereon, to the extent of the sum or sums so paid.

The Issuer shall appoint such registrars, transfer agents, depositaries or other agents and make such other arrangements as may be necessary for the registration, registration of transfer and exchange of Bonds within a reasonable time according to commercial standards then applicable and for the timely payment of principal and interest with respect to the Bonds. The Finance Director of the Issuer is hereby appointed the registrar, transfer agent and paying agent for the Bonds (collectively, the "Bond Registrar"), subject to the right of the governing body of the Issuer to appoint another Bond Registrar, and as such shall keep at his office as Finance Director, P. O. Box 479, 132 North Main Street, Salisbury, NC 28144, the books of the Issuer for the registration, registration of transfer, exchange and payment of the Bonds as provided in this resolution.

7. The Issuer hereby reserves the right to (a) increase or decrease the aggregate principal amount of the Bonds to be sold by an amount not to exceed \$1,200,000 and (b) increase or decrease the principal amount of any maturity of the Bonds to be sold by an amount not to exceed the greater of 10% or \$100,000 per maturity, following the opening of bids therefor.

8. The actions of the Finance Director of the Issuer and others in applying to the Local Government Commission of North Carolina to advertise and sell the Bonds and the action of the Local Government Commission of North Carolina in asking for sealed and electronic bids for the Bonds by publishing notices and printing and distributing the Preliminary Official Statement and the Official Statement relating to the Bonds are hereby ratified and approved. That Preliminary Official Statement is hereby approved, and the Mayor, the City Manager and the Finance Director of the Issuer are each hereby authorized to approve changes in the Preliminary Official Statement, to approve the Official Statement, and to execute the Official Statement for and on behalf of the Issuer. The Preliminary Official Statement is deemed to be a final official statement within the meaning of Rule 15c2-12 of the Securities and Exchange Commission, except for the omission of certain pricing and other information to be specified in the Official Statement.

9. The Mayor and the City Clerk and the Finance Director of the Issuer are hereby authorized and directed to cause the Bonds to be prepared and, when they shall have been duly sold by the Local Government Commission, to execute the Bonds and have the Bonds endorsed and authenticated as provided herein and to deliver the Bonds to the purchaser or purchasers to whom they may be sold by the Local Government Commission.

10. The Issuer covenants to comply with the provisions of the Internal Revenue Code of 1986, as amended (the "Code"), to the extent required to preserve the exclusion from gross income of interest on the Bonds for federal income tax purposes.

11. The Mayor and the City Clerk, the Finance Director and other officers of the Issuer are hereby authorized and directed to execute and deliver for and on behalf of the Issuer any and all financing statements, certificates, documents or other papers and to perform any and all acts they may deem necessary or appropriate in order to carry out the intent of this resolution and the matters herein authorized.

12. The Issuer hereby approves the terms of the Escrow Deposit Agreement by and between the Issuer and Escrow Agent in the form presented to the Council and hereby authorizes the officers of the Issuer designated therein to execute and deliver the Escrow Deposit Agreement in substantially such form, with such changes and insertions as such officers shall deem necessary to accomplish the purposes for which the Bonds are being issued, their execution thereof constituting conclusive evidence of such approval.

13. The Issuer hereby undertakes, for the benefit of the beneficial owners of the Bonds, to provide:

(a) by not later than seven months from the end of each fiscal year of the Issuer, to each nationally recognized municipal securities information repository ("NRMSIR") and to the state information depository for the State of North Carolina ("SID"), if any, audited financial statements of the Issuer for such fiscal year, if available, prepared in accordance with Section 159-34 of the General

Statutes of North Carolina, as it may be amended from time to time, or any successor statute, or, if such audited financial statements of the Issuer are not available by seven months from the end of such fiscal year, unaudited financial statements of the Issuer for such fiscal year to be replaced subsequently by audited financial statements of the Issuer to be delivered within 15 days after such audited financial statements become available for distribution.

(b) by not later than seven months from the end of each fiscal year of the Issuer, to each NRMSIR, and to the SID, if any, (i) the financial and statistical data as of a date not earlier than the end of the preceding fiscal year for the type of information included under heading "The City - Debt Information and - Tax Information" in the Official Statement relating to the Bonds (excluding any information on overlapping or underlying units) and (ii) the combined budget of the Issuer for the current fiscal year, to the extent such items are not included in the audited financial statements referred to in (a) above;

(c) in a timely manner, to each NRMSIR or to the Municipal Securities Rulemaking Board ("MSRB"), and to the SID, if any, notice of any of the following events with respect to the Bonds, if material:

- (1) principal and interest payment delinquencies;
- (2) non-payment related default;
- (3) unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) unscheduled draws on any credit enhancements reflecting financial difficulties;
- (5) substitution of any credit or liquidity providers, or their failure to perform;
- (6) adverse tax opinions or events affecting the tax-exempt status of the Bonds;
- (7) modification to the rights of the beneficial owners of the Bonds;
- (8) bond calls;
- (9) defeasances;
- (10) release, substitution or sale of any property securing repayment of the Bonds;
- (11) rating changes; and

(d) in a timely manner, to each NRMSIR or to the MSRB, and to the SID, if any, notice of a failure of the Issuer to provide required annual financial information described in (a) or (b) above on or before the date specified.

If the Issuer fails to comply with the undertaking described above, any beneficial owner of the Bonds may take action to protect and enforce the rights of all beneficial owners with respect to such undertaking, including an action for specific performance; provided, however, that failure to comply with such undertaking shall not be an event of default and shall not result in any acceleration of payment of the Bonds. All actions shall be instituted, had and maintained in the manner provided in this paragraph for the benefit of all beneficial owners of the Bonds.

The Issuer reserves the right to modify from time to time the information to be provided to the extent necessary or appropriate in the judgment of the Issuer, provided that:

(a) any such modification may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identify, nature, or status of the Issuer;

(b) the information to be provided, as modified, would have complied with the requirements of Rule 15c2-12 issued under the Securities Exchange Act of 1934 ("Rule 15c2-12") as of the date of the Official Statement relating to the Bonds, after taking into account any amendments or interpretations of Rule 15c2-12, as well as any changes in circumstances; and

(c) any such modification does not materially impair the interest of the beneficial owners, as determined either by parties unaffiliated with the Issuer (such as bond counsel), or by the approving vote of the registered owners of a majority in principal amount of the Bonds pursuant to the terms of this bond resolution, as it may be amended from time to time, at the time of the amendment.

Any annual financial information containing modified operating data or financial information shall explain, in narrative form, the reasons for the modification and the impact of the change in the type of operating data or financial information being provided.

The provisions of this Section shall terminate upon payment, or provision having been made for payment in a manner consistent with Rule 15c2-12, in full of the principal of and interest on all of the Bonds.

14. The investment banking firm of Davenport & Company LLC is hereby authorized to serve as financial advisor to the Issuer (the "Financial Advisor") in connection with sale and issuance of the Bonds. The Financial Advisor and its affiliates are hereby expressly

authorized to bid for the purchase of the Bonds.

Thereupon, Mr. Burgin made a **motion** that the *Resolution Authorizing Issuance of Debt* be approved. Mr. Kennedy seconded the motion. Messrs. Burgin, Kennedy, Martin, Woodson, and Ms. Kluttz voted AYE. (5-0)

The motion was adopted by the following vote:

AYES: Burgin, Kennedy, Martin, Woodson, and Kluttz

NAYS: None

(The above resolution is recorded in full in Resolution Book No. 11, under Chapter XII - Miscellaneous, at Page Nos. 38-50, and is known as Resolution No. 2003-36.)

AWARD CONTRACT - GRANTS CREEK WASTEWATER LABORATORY VENTILATION PROJECT

Mr. John Vest, Deputy Utilities Director, recognized Mr. Bob Morrison, Morrison & Associates, Consultant for the project, and indicated that the project basically related to the matter of the health and safety of our employees. He commented that there was inadequate air exchange and problems with corrosion in the laboratories. He indicated that there is the need to replace the entire air-handling system. Mr. Vest noted that four bids for the contract had been submitted; staff has negotiated with the low bidder; and recommends awarding the contract in the amount of \$126,928.00 to P. C. Godfrey, Inc.

Thereupon, Mr. Kennedy made a **motion** to award the contract in the amount of \$126,928.00 to P.C. Godfrey, Inc. for the Grants Creek Wastewater Laboratory Ventilation Project. Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, Martin, Woodson and Ms. Kluttz voted AYE. (5-0)

CAPITAL PROJECT BUDGET ORDINANCE FY2003-04 - GRANTS CREEK WASTEWATER LABORATORY VENTILATION PROJECT

Mr. John Vest, Deputy Utilities Director, informed Council that the request of \$134,428.00 includes the cost to the contractor of \$126,928.00 plus \$7,500.00 for design and inspection. He commented that funds are available and approval is recommended.

Thereupon, Mr. Woodson made a **motion** to approve the capital project budget ordinance for \$134,428.00 for the construction of the Grants Creek Wastewater Ventilation project. Mr. Kennedy seconded the motion. Messrs. Burgin, Kennedy, Martin, Woodson, and Ms. Kluttz voted AYE. (5-0)

GRANTS CREEK LAB VENTILATION PROJECT, CAPITAL PROJECT ORDINANCE

(The above ordinance is recorded in full in Ordinance Book No. 19, under Chapter II - Administrative, at Page No. 41, and is known as Ordinance No. 2003-50.)

UPDATE REGARDING NEW ENFORCEMENT PROCEDURES FOR SEWER OVERFLOWS

Mr. Matt Bernhardt, Assistant City Manager for Utilities, informed Council that staff recently became aware through the North Carolina League of Municipalities that the state of North Carolina intends to put in place a new enforcement response to sanitary sewer overflows. He noted that the basic change is that all unauthorized releases or overflows will be considered violations for which an enforcement action could be taken. Not every violation will necessarily result in a fine, but some of the enforcement actions could include significant penalties, he said. Mr. Bernhardt commented that in the past, there was a points system in which all overflows were not necessarily subject to fines, but that the points system would be eliminated and everyone would be treated as if they have been issued a system-wide permit. He pointed out that this amounts to a significant change in the position of the state regarding sewer system overflows. Mr. Bernhardt explained that after receipt of a letter from the state regarding an overflow, each release will be considered a violation for which an enforcement action can be taken, such as civil penalties.

Mr. Bernhardt noted that this results in minimal change for the City of Salisbury because it has already been under a system-wide collection permit since 2002. He pointed out that Salisbury was actually one of the first cities in the state to undergo the new process and was issued Permit #19. The City of Salisbury experiences overflows just as does every system, he stated. Mr. Bernhardt noted that during 2002-2003, the City reported forty spills totaling 157,000 plus gallons. The Charlotte-Mecklenburg Utilities, during the same period, reported 538 spills totaling 21 million gallons. Mr. Bernhardt explained that every spill is reported and thoroughly documented. He further explained that it is important to understand that spills can and do occur in every utility system, due to whatever is introduced into the system. He noted that blockages can occur in brand new lines or in lines that have just been cleaned. It is not possible to guarantee that any utility or sewer system will never have a backup, blockage, or break of some type, he said.

Mr. Bernhardt listed the following that the City can do:

- Work to limit inflow and infiltration (I & I)
- Clean and maintain our system regularly
- Respond quickly and efficiently to problems
- Report spills honestly and accurately

Mr. Bernhardt described the actions being undertaken by the City before the state made this announcement:

- Creation of a three-person I & I crew as approved in the FY2003-2004 Budget
 - Reduction of I & I on a daily and continuing basis so that during storm events the City will not experience the kind of overflows experienced in the past
 - Implementation of a "FOG Program" which concerns fat spills and greases and how to deal with and regulate them to prevent introduction into the sewer system thus creating blockages and overflows
 - Stepped up enforcement of utility construction standards which results in the elimination of sub-standard infrastructure being constructed and then turned over to the City
-
- Undergoing system-wide master planning to eliminate or consolidate sewer lift stations. He cited an example where in the east Rowan area, the staff is working on a concept which might eliminate 15 lift stations inherited by the City in favor of three larger ones. This would reduce the points at which overflows could occur
 - Increasing the use of Geographic Information System (GIS) in monitoring to gather information on the system operation
 - Addition of a GIS staff person, as approved in the FY2003-2004 budget, who will gather the information to keep track of the needs of the system and the necessary improvements

Mr. Bernhardt indicated that the state will be more inclined to issue fines, that it is their intention to begin with the utilities that are not honestly reporting overflows and breakages, and that he did not think that would include the City of Salisbury.

City Manager Treme commented that this Council has, in good faith, spent literally millions of dollars in the last years replacing old and leaking lines in a system that is old. He noted that the City is working on inflow and infiltration, and when a spill occurs, it is reported to the state. He commented that instead of fining the cities, he felt it would be better to use that money to improve the local systems. He stated that given the amount of rain during this last period of time, he could guarantee that on any wet, rainy day, there will be overflows. Mr. Treme cited one situation where 25 million gallons of rainwater got into the pipes at different locations and flowed through the 12.5 million gallon plant and flooded out. He noted that sewer pipes are built along creek beds in low areas and that water, over time, gets in through joints.

Mr. Treme, stated that given the age and the size of this system, there will be overflows and there will be some fines. He commented that, in all good conscience and good faith, he did not know what could be done to prevent having that happen to the City. He noted that this will occur in other cities and counties as well, but that Salisbury is probably in a little bit better shape than most. He commented that it is hard to believe, if people are honestly and fairly reporting when they have these rain experiences, that they do not have overflows. Mr. Treme stated that the City is going to have overflows and some fines, but that staff is going to do everything in its power to make sure that it operates in as effective and efficient manner as possible.

Mr. Treme commented that the cost for replacing all of the lines in the system would be so astronomical that it would drive rates and the rate payers right out of their ability to afford the service. He stated that the City is going to continue with what this Council has done, go on a balance system, address the problem as best we can, and put all of the money possible in trying to reduce the problem. Mr. Treme commented that even after all that could be done has been done, the day will come when one will read about the City receiving a fine for a spill which will basically be rainwater backing up and coming out. He noted that the City will report the spills, but that it is up against a problem that he does not think can be overcome.

Mayor Pro Tem Woodson commented that even if one had a brand new system, there would be spills if it rained hard enough. Mr. Treme and Mr. Bernhardt agreed with him.

Mr. Bernhardt explained that the City system is a very old system in a very old city. He noted that the greatest problems come from some of the smaller systems which have been inherited, but that progress is being made in those areas. He stated that staff has a plan and is proceeding with it, and that with the additional staffing, efforts can be channeled on a daily basis. He commented that he thinks there will be improvement in a record that the City will not be embarrassed by, and that he is very proud of the staff and their commitment to doing well when there is a storm event.

Mr. Treme commented that the situation was going to get better, but that perfection would not be reached here, or probably anywhere else. He noted that he wanted the efforts of the City to be the very best for this City Council. He commented that he questioned the wisdom of the approach that the state is taking, but that is the approach they have taken, the law is the law, and the City will do its best to comply with it.

COMMENTS FROM CITY MANAGER

(a) Planning Board recommendations and comments

Council received the Planning Board recommendations and comments from their July 8, 2003 meeting.

(b) Community Emergency Response Teams (CERT)

City Manager Treme noted that one of the City Council Goals is to keep citizens informed about natural disasters and terrorism. He explained that Fire Chief Sam Brady, in cooperation with Rowan County, would like to share some current information.

Fire Chief Sam Brady informed Council that some grants were available this year, through the State Emergency Management Office, to assist counties with emergency preparedness. He noted that Rowan County was a recipient of one of the grants. Chief Brady introduced Rowan County Fire Marshal Art Delaney and Battalion Chief Bob Parnell of the Salisbury Fire Department, who are both

members of the Local Emergency Planning Committee, and asked them to explain the grant and how it would be used by both the City and the County.

Mr. Parnell stated that through a cooperative effort led by the Local Emergency Planning Committee and comprised of appointed members of emergency service agencies, private industry representatives, the Red Cross, and members of the public at large, a non-matching \$9990.00 grant had been received. He noted that the grant is to be used for the preparation and delivery of Community Emergency Response Teams (CERT) training programs in the communities.

Mr. Parnell noted that CERT teams function at the neighborhood level during disasters. He explained that the program trains citizens to respond to emergency situations by giving critical support to firefighters, police, and rescue responders, by providing immediate assistance to victims, and by organizing spontaneous volunteers at a disaster site. He noted that CERT members can also help with non-emergency projects that help improve the safety of the community.

Mr. Parnell indicated that CERT training helps neighborhoods to be self-sufficient for the first 48 to 72 hours of a disaster. He noted that the most highlighted success of CERT was during the Northridge Earthquakes in California. He noted that two events here is Salisbury during which CERT would have been activated and effective were Hurricane Hugo in 1989 and the ice storm of 2002. He recalled that the City requested and deployed a small army of National Guardsmen to check on the well-being of our citizens, and that it took two full days to make contact with every home in the City. He commented that an organized CERT Team in the affected neighborhoods would be able to conduct periodic wellness checks, be more self-reliant, and be able to handle minor emergencies in a timely manner.

Mr. Parnell explained that the CERT program is taught in the community by a trained team of first responders who have completed a CERT Train-the-Trainer course and includes disaster preparedness, disaster fire suppression, basic disaster medical operations, and light search and rescue operations. He noted that currently, there are three (3) on staff CERT instructors at the Fire Department with a train-the-trainer program scheduled for the third quarter of this year. He stated that after the program, there would then be more than twenty-five (25) CERT Instructors on staff.

Mr. Parnell commented that both the City and County have made a commitment to improve community safety during emergencies, and that CERT will be an excellent vehicle to improve announcement methods and to allow neighborhoods to be self-sustaining during a disaster, he said. He noted that the grant will allow for the purchase and development of several needed training props used to teach CERT team members to cut off the natural and propane gas and domestic water in case of a building collapse, supplies to teach first aid, purchase of fire extinguishers, purchase of safety equipment that CERT members will need to wear during such training, and copying of student resources manuals.

Mr. Parnell commented that through this grant appropriation, it is estimated that the first CERT training classes will be delivered in the community in early 2004. He stated that he hoped to provide an up-date on the planning toward the end of the year. He noted that Mr. Wayne Ashworth, Emergency Services Director for Rowan County, was present and that they would entertain any questions.

Mayor Kluttz congratulated them on receiving the grant and pointed out that there has been a renewed focus on emergency preparedness ever since the terrorist attack in New York. She explained that following the ice storm in 2002, Council had discussed, at its retreat, how the City could better provide information to the public during an emergency. She commented that Council was also appreciative of their finding the money for this program and working jointly with the County.

(c) Announce promotion - Mr. Joe Morris - Planning & Community Development

Manager

Mr. Dan Mikkelsen explained that he has been Director of Land Management & Development for just over a year and that he had been considering some reorganization within the department and wanted to create a Planning & Community Development Division which would be headed by a division manager. Mr. Mikkelsen noted that such a position was funded in the new budget, advertised for applicants, and that Mr. Joe Morris was the successful applicant for the position. He stated that Mr. Morris will be managing the activities of the Planning & Community Development Division which will be responsible for coordinating land use and transportation planning, community and neighborhood development, downtown revitalization, and portions of the historic preservation efforts. Mr. Mikkelsen noted that Mr. Morris had recently received his AICP (American Institute of Certified Planners) Certification.

Mayor Kluttz commented that she had worked very closely with Mr. Morris on many different kinds of projects over the nearly six years she had been on the Council, and that he comes up with wonderful creative ideas for which Council often gets the credit. She commented that the City is very fortunate to have him and it is a well-deserved promotion.

(d) Ray Construction Company - I-85 Project

Mr. Dan Mikkelsen, Director of Land Management and Development, reminded Council that Ray Construction Company, contracted for the I-85 Project at Innes Street, has been having a problem with cash flow because of the parent organization. He advised Council that the North Carolina Department of Transportation (NCDOT) had notified his office today that Ray Construction Company was being purchased by Fru-Con Construction of St. Louis, Missouri. He noted that Fru-Con Construction is owned by the German conglomerate, Bilfinger Berger, AG, which is one of the fifteen (15) largest construction firms in the world. Mr. Mikkelsen stated that Ray Construction Company would continue to operate out of the Charlotte office and that this should clear up the issue with cash flow problems which were created by the previous bankruptcy case.

Mayor Pro Tem Woodson commented that he frequents that area often and has observed that there has been no sign of any activity.

Mr. Mikkelsen explained that the big impact came when the parent company declared bankruptcy and the bankruptcy court determined distribution of the assets. He noted that Ray Construction Company was one of the profitable entities of the parent company, and that it appears the court was taking the profits from Ray Construction Company and directing them to pay off debt. He

explained that Ray Construction Company then became unable to purchase supplies and retain subcontractors, but that this buyout would enable Ray Construction Company to regain control of their own cash flow and get their suppliers and subcontractors back in operation.

Mayor Pro Tem Woodson noted that over the last two months, he had heard from over a hundred people in reference to this situation. He commented that he had talked again with the people who worked on the Wal-Mart project, and he said that their engineering people told him how quickly these projects can be done. He noted that as a citizen, one wonders why it takes years to complete a project that his contacts indicate would take only months to complete.

Mr. Mikkelson commented that Ray Construction Company has done an excellent job. He noted that they had the first three contracts on I-85 and that up until they began work at Innes Street, they were always ahead of schedule, within budget, and maintained an excellent safety record.

(e) Chestnut Hill Cemetery Vandalism

Ms. Linda Davis, Cemetery Operations Manager, reported to Council that there had been vandalism at Chestnut Hill Cemetery on Sunday night, July 13, 2003. She said that fifty (50) headstones, ranging in size from ten to twelve hundred pounds, had been affected. Ms. Davis reported that the headstones had been pushed over, and it would appear that several individuals were involved. She stated that the headstones dated back to the 1890's with most from the 1920's, and that only two were actually broken. Ms. Davis reported that the Salisbury Police responded and investigated, but were unable to lift fingerprints. She told Council that pictures were available for viewing after the meeting. Ms. Davis informed Council that Salisbury Marble and Granite Company had been contacted regarding an estimate on the cost to re-seat the stones, and had been quoted a total price of \$1,250.00 to put the headmarkers back to their original condition. She stated that all of the stones have been inventoried by locations and names, and that they are trying to locate the lot owners. She said this is rather impossible at this stage, because all of the cemetery records are in the names of the original cemetery lot owners who are probably now deceased. Ms. Davis noted that an ad will be placed in the SALISBURY POST asking people who own property in Chestnut Hill Cemetery, to contact her for an update on the vandalism and to determine whether or not their headstones were affected. Salisbury Marble and Granite have been notified to proceed with the work which will be completed in about three weeks, Ms. Davis reported.

Councilman Martin asked whether the vandalism was scattered throughout the cemetery or in a specific location. Ms. Davis replied that it occurred in one interior area near the cemetery office.

Mayor Pro Tem Woodson asked for an estimate of how many people it might take to push over a 1200 pound stone that had been in the ground for sixty years. Ms. Davis replied that it would probably take about four or five individuals, depending on weight and height, and that this was not the work of young children.

City Manager Treme commented that the public is being asked to contact the Salisbury Police Department if they have any information in reference to the incident.

Mayor Klutz commented that it is sad because of the hurt it brings to the families and because it is a beautiful historic area.

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MAYOR'S ANNOUNCEMENTS

(a) Western North Carolina Rail Committee Meeting

Mayor Klutz reminded Council that the Western North Carolina Rail Committee Meeting will be held at the Depot on July 16, 2003, at 12:00 p.m.

(b) Chamber of Commerce - East Innes Gateway Plan

Mayor Klutz announced that the Chamber of Commerce will host a Town Meeting on July 16, 2003, at 5:30 p.m., to discuss the East Innes Gateway Plan.

(c) National Black Music Month

Councilman Kennedy reported that in June, 2003, he was invited to the White House for the occasion in which President George W. Bush proclaimed *National Black Music Month*. He noted that he was invited to a concert in the East Wing of the White House, which was attended by Secretary of State Colin L. Powell; National Security Advisor Condoleezza Rice; Secretary of State Page; and representatives from throughout the nation. Mr. Kennedy commented that he visited the Green Room, the Blue Room, and that in the Red Room, he had his picture taken with President and Mrs. Bush. He noted that he did not know to whom he should thank for the opportunity, but that he had a joyous time.

ADJOURNMENT:

Motion to adjourn the meeting was made by Mr. Woodson, seconded by Mr. Burgin. All Council members agreed unanimously to adjourn. The meeting was adjourned at 5:35 p.m.

Mayor

City Clerk